IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 1491 of 1981

Date of Decision: August 24, 2009

Municipal Council, Jagadhri ..... Appellant

Versus

Smt. Inder Kaur and another ..... Respondents

Coram: Hon'ble Mr. Justice Ajay Tewari

Present: Mr. Jagdish Manchanda, Advocate
for the appellant.

Mr. Amandeep Singh, Advocate
for Mr. G.S. Hooda, Advocate.

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Ajay Tewari, J.

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the respondent for permanent injunction restraining the appellant from interfering in the possession of the plot of the respondents measuring 109 ft x 50ft.

The claim of the appellant municipal committee is twofold. The first submission made by learned counsel for the appellant is that the land having been described as Shar-e-aam in the Jamabandi Ex.D2 it would be owned by the appellant. It may be noticed that in the Courts below the claim of ownership by the appellant was made on the basis of the Haryana Municipal Common Land (Regulation) Act, 1974. However, that claim was rejected by the Courts below on the ground that in the case of

Rajender Pershad and others v. State of Haryana and others reported as 1979 Revenue Law Reporter 437 the said Act was declared ultra vires and struck down being unconstitutional. In the circumstances the question of law proposed by learned counsel for the appellant that the land has vested in the Municipal Committee since it was described as Shar-e-aam has to be answered against him. Even on facts the trial Court has specifically found that the passage is towards the South of the disputed plot. That finding is not upset by the Lower Appellate Court. Even in view of this finding of fact there is no merit in this appeal.

Consequently both on the question of law and the question of fact this appeal is dismissed. No costs.

(AJAY TEWARI)
JUDGE

August 24, 2009
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